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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,226	12/18/2001	Markus Hess	010826	3496
26285	7590	02/19/2004	EXAMINER	
KIRKPATRICK & LOCKHART LLP 535 SMITHFIELD STREET PITTSBURGH, PA 15222			SAN MARTIN, EDGARDO	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 02/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/032,226

Applicant(s)

HESS, MARKUS

Examiner

Edgardo San Martin

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-18 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 – 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lynn (US 5,856,640) in view of Gerber (US 3,842,941).

With respect to Claim 1, Lynn teaches a method for testing an engine of a jet aircraft in a ground run-up enclosure (GRE) (Fig.5, Item 50), the jet aircraft having an elongate body defining an aircraft axis and the engine having an air inlet and an exhaust outlet aligned substantially parallel to the aircraft axis, the ground run-up enclosure having a rear wall, a pair of side walls attached to the rear wall and an open front side opposite the rear wall (Fig.5), the method comprising moving the jet aircraft into the ground run-up enclosure, it is inherent that the jet aircraft needs to be positioned inside the GRE by any known procedure; and running the engine up to full power to test its condition (Col.1, Line 54 – Col.2, Line 19 and Col.6, Lines 8 – 19). However, Lynn fails to disclose wherein the jet aircraft is aligned with the aircraft axis substantially parallel to the actual wind direction and with the air inlet of the engine facing an actual wind direction.

On the other hand, Gerber teaches a method for testing an engine of a jet aircraft in a ground run-up enclosure (GRE) (Figs.1 and 2) comprising a step of aligning the jet aircraft with the aircraft axis substantially parallel to the actual wind direction and with the air inlet of the engine facing an actual wind direction (Col.1, Lines 36 – 45 and Col.2, Line 63 – Col.3, Line 4).

It would have been obvious to a person with ordinary skill in the art to aligned the Lynn jet aircraft facing an actual wind direction, as disclose by Gerber because some engines are very sensitive in their reaction to side winds, these engines required very precise air pressure conditions that may not exist in the presence of side winds, and failure of the engines could occur.

With respect to Claim 2, Lynn teaches moving the jet aircraft into the ground run-up enclosure with the aircraft axis substantially perpendicular to the rear wall (Fig.5).

With respect to Claim 3, Gerber teaches turning the jet aircraft within the ground run-up enclosure (Fig.2).

With respect to Claim 4, the obvious combination of the patents to Lynn and Gerber teach wherein the front side of the ground run-up enclosure faces the prevailing wind direction.

### ***Allowable Subject Matter***

2. Claims 5 – 18 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

- The references of the Prior Art of record fail to teach, or suggest any obvious combination of the limitations discussed above and in the previous Office Action mailed on June 5, 2003, and further comprising the limitations **(with respect to claim 5)** of wherein the side walls and the rear wall each have an inner face sloped downwardly and inwardly so as to form an oblique angle with the ground.

### ***Response to Arguments***

3. Applicant's arguments filed on December 5, 2003 have been fully considered but they are not persuasive. With respect to claim 1 – 4, the Examiner considers that the obvious combination of the patents to Lynn and Gerber teach the limitations described by the claimed subject matter. The Examiner did not find any description on the claims that would not permit for the enclosure to be moved at a time when the actual wind direction differs from the prevailing wind direction, it is just established that the jet aircraft is to be aligned substantially parallel to the actual wind direction, limitation that is clearly described by the obvious combination of the patents to Lynn and Gerber, as discussed above.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571) 272-2074. The examiner can normally be reached during 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on (571) 272-2071. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872 - 9306 for regular communications and (703) 872 - 9306 for After Final communications.

Art Unit: 2837

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Edgardo San Martín  
Patent Examiner  
Art Unit 2837  
Class 181  
February 12, 2004

  
**ROBERT NAPPI**  
**SUPERVISORY PATENT EXAMINER**